

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DENMAN KOUNTZE, JR., as
President and Trustee of the Gilbert
M. and Martha H. Hitchcock
Foundation, a nonprofit corporation,

Plaintiff,

vs.

TYLER B. GAINES, NEELY KOUNTZE,
MARY KOUNTZE, JOHN WEBSTER,
W. RUSSELL BOWIE, III, THOMAS R.
BURKE, LAMSON DUGAN &
MURRAY, L.L.P., EDWARD HOTZ,
HOTZ, WEAVER, FLOOD,
BREITKRENTZ & GRANT, GILBERT
M. AND MARTHA H. HITCHCOCK
FOUNDATION,

Defendants.

CASE NO. 8:04CV616

ORDER OF DISMISSAL

This matter is before the Court on the Motions to Dismiss (Filing Nos. 49 and 50) filed by the Defendants, and the Motions for Leave to Withdraw (Filing Nos. 52 and 54) filed by counsel for the Plaintiff. Plaintiff Denman Kountze Jr. died on August 25, 2005, and the Nebraska Attorney General has chosen not to pursue this matter. There have been no objections to the motions. I find that the motions should be granted. Accordingly,

IT IS ORDERED:

1. The Motions to Dismiss (Filing Nos. 49 and 50) are granted;
2. The Motions for Leave to Withdraw (Filing Nos. 52 and 54) are granted;
3. The Amended Complaint and all claims in this matter are dismissed without prejudice; and
4. The parties shall bear their own costs and attorney's fees.

DATED this 7th day of November, 2005.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge